

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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PARADISE PRODUCTS, CORP.,	:
	:
Plaintiff,	:
	:
- against -	:
	:
SABLE & ROSENFELD FOODS, LTD.	:
	:
Defendant.	:
	:
-----X	

**08 CV 0069 (RBS)**

**REPLY TO DEFENDANT'S  
COUNTERCLAIMS**

Plaintiff Paradise Products, Corp. (the "Plaintiff" or "Paradise Products"), by its attorneys, Kane Kessler, P.C., as and for its Reply to Defendant Sable & Rosenfeld Foods, Ltd.'s ("Defendant" or "Sable") Counterclaims, alleges as follows:

**Facts Common to All Counterclaims**

47. Paradise Products lacks sufficient knowledge or information as to the truth of these averments in paragraph 47 of the Counterclaims and therefore denies the same, except admits that Sable was in the business of specialty condiments olives, onions and cherries.

48. Paradise Products admits that the parties began discussions regarding Plaintiff packaging Defendant's various products in or about June 2006 and that Plaintiff sent Defendant a sample product in 2006. Paradise Product denies all other allegations contained in paragraph 48 of the Counterclaims.

49. Paradise Products denies that Defendant placed its first order in November 2006; rather Defendant sent projections to Plaintiff at this time, and denies all other allegations contained in paragraph 49 of the Counterclaims. Paradise Products required the projections and

commitment from Defendant prior to placing orders for ingredients and raw materials to make Defendant's products, and Defendant knew this.

50. Paradise Products contends that "containers" in the industry could mean either the containers of food items or containers used for packaging the food, and therefore this paragraph 50 is ambiguous. Paradise Products denies all allegations contained in paragraph 50 of the Counterclaims, and further states that materials sent to Paradise Product from Defendant were deducted from the monies owed to Paradise Products.

51. Paradise Products admits Defendant received its first orders of products in January 2007 and denies all other allegations contained in paragraph 51 of the Counterclaims.

52. Paradise Products admits Defendant received further orders from Plaintiff, which were then shipped to Defendant's distributors. Paradise Products denies all other allegations contained in paragraph 52 of the Counterclaims.

53. Paradise Products admits that Defendant notified Plaintiff that certain jars of products were leaking, and Paradise Products further states that it addressed and resolved all of these concerns. Paradise Products denies all other allegations contained in paragraph 53 of the Counterclaims.

54. Paradise Products denies the allegations in paragraph 54 of the Counterclaims.

55. Paradise Products denies the allegations in paragraph 55 of the Counterclaims.

56. Paradise Products admits that it took back products for the inspection of caps in June 2007. Paradise Products denies all other allegations contained in paragraph 56 of the Counterclaims.

57. Paradise Products admits that Defendant ordered cherries from it in March 2007, purchase order PO2768 March 30, 2007 faxed to Paradise Products on April 2, 2007, and that the

cherries were picked up by Defendant in June 2007. Paradise Products denies all other allegations contained in paragraph 57 of the Counterclaims.

58. Paradise Products denies the allegations contained in paragraph 58 of the Counterclaims.

59. Paradise Products denies the allegations contained in paragraph 59 of the Counterclaims. Paradise Products further states that it packed products according to Defendant's specifications, purchase orders and demands.

60. Paradise Products denies the allegations contained in paragraph 60 of the Counterclaims, and further states that Defendant had frequent changes to its orders and product needs, late payments and credit problems that caused delays.

61. Paradise Products denies the allegations contained in paragraph 61 of the Counterclaims, and further states Defendant's CEO Myra Sable and/or the USA National Sales Manager Mary O'Neil routinely and consistently sampled and approved products prior to Plaintiff's packaging and shipping the products.

62. Paradise Products admits that it received some packaging materials from Defendant, and that Defendant deducted the costs of supplying the packaging materials from the invoices to Plaintiff, and further denies all other allegations contained in paragraph 62 of the Counterclaims.

63. Paradise Products admits that in the summer of 2007, the olives used for Defendant's products were smaller, and further states that Paradise Products informed Defendant of the olive size from the olive suppliers and that Defendant approved the smaller olive size for packaging. Paradise Products denies the other allegations contained in paragraph 63 of the Counterclaims.

64. Paradise Products admits that it informed Defendant that it was going out of business in October 2007 and informed Defendant that it could not produce Defendants' new orders, but would fulfill the existing purchase orders. Paradise Products further states that as an accommodation to Defendant, it packaged products for Defendant per request in October through December 2007, generating a six month supply of products for Defendant. Paradise Products denies all other allegations contained in paragraph 64 of the Counterclaims.

65. Paradise Products denies the allegations contained in paragraph 65 of the Counterclaims.

**As And For a First Counterclaim**

66. Paradise Products repeats and re-alleges its responses to the paragraphs 47 through 65 of the Counterclaims as if more fully set forth herein.

67. Paradise Products denies the allegations contained in paragraph 67 of the Counterclaims.

68. Paradise Products denies the allegations contained in paragraph 68 of the Counterclaims.

69. Paradise Products denies the allegations contained in paragraph 68 of the Counterclaims.

70. Paradise Products denies the allegations contained in paragraph 70 of the Counterclaims.

71. Paradise Products denies the allegations contained in paragraph 71 of the Counterclaims.

72. Paradise Products denies the allegations contained in paragraph 72 of the Counterclaims.

**As And For A Second Counterclaim**

73. Paradise Products repeats and re-alleges its responses to the paragraphs 47 through 72 of the Counterclaims as if more fully set forth herein.

74. Paradise Products denies the allegations contained in paragraph 74 of the Counterclaims.

75. Paradise Products denies the allegations contained in paragraph 75 of the Counterclaims.

76. Paradise Products denies the allegations contained in paragraph 76 of the Counterclaims.

**As And For A Third Counterclaim**

77. Paradise Products repeats and re-alleges its responses to the paragraphs 47 through 75 of the Counterclaims as if more fully set forth herein.

78. Paradise Products denies the allegations contained in paragraph 78 of the Counterclaims.

79. Paradise Products denies the allegations contained in paragraph 79 of the Counterclaims.

80. Paradise Products denies the allegations contained in paragraph 80 of the Counterclaims.

**As And For A Fourth Counterclaim**

81. Paradise Products repeats and re-alleges its responses to the paragraphs 47 through 80 of the Counterclaims as if more fully set forth herein.

82. Paradise Products denies the allegations contained in paragraph 82 of the Counterclaims.

83. Paradise Products denies the allegations contained in paragraph 83 of the Counterclaims.

84. Paradise Products denies the allegations contained in paragraph 84 of the Counterclaims.

**WHEREFORE**, Paradise Products respectfully requests that Defendant's Counterclaims be dismissed with prejudice; together with such other, further and different relief as to the Court seems just and proper.

Dated: New York, New York  
June 23, 2008

**KANE KESSLER, P.C.**

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